IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 214 OF 1998.

The Commissioner of Income-tax. ... Appellant.
V/s.
Shanti Vijay Jewels Pvt.Ltd. ... Respondent.

Ashok Kotangale with Parag Vyas for the respondent.

P.C.Tripathi for the respondent.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 4th October 2005.

P.C. :

. By this reference under section 256(1) of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following question of law for the opinion of this Court:

> "Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that in respect of the salary and perquisites of employee-directors, the provisions of section 40(c) and not those of section 40A(5) would be applicable?

8. Learned counsel for the parties agreed that in view of the decision of this Court in the case of **C.I.T. v. Hico Products Pvt.Ltd.(No.1)**, (1993) 201 ITR 567 the question referred has to be answered in the affirmative i.e. in favour of assessee and against the revenue.

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